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1928

# EDUCATION

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<p><b>EDUCATION.</b> Senate Constitutional Amendment 26. Amends Sections 2, 3 and 7, Article IX, of Constitution. Provides for State Board of Education, composed of ten members with ten-year terms, appointed by Governor with concurrence of Senate, Superintendent of Public Instruction to be Executive Secretary thereof with salary fixed by law;</p>	YES	
<p>6 Board to provide, under legislative regulations, text-books for elementary schools; empowers Legislature to transfer jurisdiction of such Superintendent to Director of Education whenever hereafter it creates latter office, vacating other office while latter exists; authorizes regulations whereby holders of State credentials may teach without county certificates.</p>	NO	

(For full text of Measure see page 28, Part II)

**Argument in Favor of Senate Constitutional Amendment No. 26**

To keep the school system of California out of politics is the object of this amendment.

Experience shows that this requires a State Board of Education:

- (1) Which holds office for a long time,
- (2) Which is not subject to removal with each turn of the political wheel,
- (3) Which has undivided responsibility and authority.

Our state now labors under the handicap of a double-headed system. The state board is appointed by the Governor; the state superintendent is elected by the people. The possibility of deadlock has long been realized. A legislative commission, in 1919, gave warning of this danger. This deadlock, with its consequent paralysis of our state school system, actually occurred in 1925-1927, when the teachers colleges at San Francisco and San Jose were without presidents for two years because the state board would not ratify the appointments of the state superintendent.

This amendment removes this danger of deadlock. Moreover, it unifies the administration of the state school system under one central agency: a new State Board of Education, which appoints a director of education. Thereupon the office of state superintendent becomes vacated, his duties being carried out by the director of education.

This substitution takes place only under the safeguards provided in the amendment. These safeguards prevent the domination of the board by any one Governor in any four-year term after its initial appointment. Only in case a Governor is reelected does he have the appointment of a majority of the board.

As a further safeguard each appointment must be confirmed by the very high vote of two-thirds of the senate.

The most important safeguard of all, more effective than the recall, is the power of the legislature to restore the position of state superintendent if the system of appointment by the board does not prove satisfactory.

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In the effort to secure unity, the other method of selecting the state board: namely, by election, had to be eliminated because our state constitution places in the board the selection of text-books. If the members of the board were elected it would, therefore, make the board a political prize sought after by commercial interests.

Experience has shown that uniformly capable city and state superintendents have more often been obtained through appointment than through election.

A state board must have the assurance and independence of action that can only come from long-term appointments, otherwise it will become timid, its eyes always watching elections. If it can be ousted at the whim of changing political administrations, the school system of the state will be kept in constant political turmoil.

The amendment does not change the present provisions with regard to free state textbooks, and makes only minor changes relative to county boards and superintendents and teachers' credentials.

That the legislature almost unanimously approves of this amendment is shown by the fact that only ten votes were cast against it out of 120 members.

The plan proposed resembles the method by which the University of California is administered.

Measures similar to this amendment have been adopted by New York, Massachusetts, Pennsylvania and other states which lead in education. Our present State Superintendent of Public Instruction, the deans of three large California universities and practically all other educational experts strongly endorse it.

HERBERT C. JONES,  
State Senator, Twenty-eighth District.

SANBORN YOUNG,  
State Senator, Twenty-seventh District.

**Argument Against Senate Constitutional Amendment No. 26**

Senate Constitutional Amendment No. 26 set up an appointive State Board of Education with ten members whose term of office is ten years. The members of this board are to be

appointed by the Governor and confirmed by the senate and when in office are not subject to recall nor to impeachment, nor to removal from office except for conviction of a crime. Long-term boards, even when subject to removal, have a tendency to become autocratic and domineering. It is inevitable that this unwelcome tendency will be intensified greatly in a board vested with extensive powers, holding office for ten years, and not subject to control by the people.

Amendment No. 26 gives the legislature power to suspend the office of State Superintendent of Public Instruction. Whenever this shall be done, and it is proposed to do it in 1929, a new office to be known as Director of Education is set up by this amendment. This part of the amendment is designed to change the office of State Superintendent of Public Instruction from an elective to an appointive office and to increase the salary from \$5,000 a year and traveling expenses to a larger salary with traveling expenses. This part of the amendment is based on the theory that the people have proven themselves incapable of choosing worthy persons as State Superintendent of Pub-

lic Instruction. The advocates of this plan forget that California has one of the best public school systems in the nation, which system has been fostered and developed by several of the greatest educational leaders of this country, all of whom were elected Superintendents of Public Instruction by the direct vote of the people. This amendment is a part of that insidious campaign which steadily, step by step, is stripping the people of the power of self-government and is setting up a government by appointment in place of a government by popular election. The advocates of this type of government mask their plans with arguments which ignore their real purpose and call attention to other matters. It is easy to surrender self-government. It is most difficult to regain it. Ostensibly this amendment aims to set up a unified state control of our schools. Really it takes the control of our schools from the people and vests that control in a State Board of Education responsible to no one, not even to the Governor who appoints it, or to the senate which confirms it.

- FRANK C. WELLER,  
State Senator, Thirty-Sixth District.

than one hundred dollars nor more than one thousand dollars and be imprisoned in the county jail not less than thirty days nor exceeding one year; provided, however, that amateur boxing exhibitions may be held within this state, of a limited number of rounds, not exceeding four of the duration of three minutes each; the interval between each round shall be one minute, and the contestants weighing one hundred and forty-five pounds or over shall wear gloves of not less than eight ounces each in weight, and contestants weighing under one hundred and forty-five pounds may wear gloves of not less than six ounces each in weight. All gloves used by contestants in such amateur boxing exhibitions shall be so constructed, as that the soft padding between the outside covering shall be evenly distributed over the back of said gloves and cover the knuckles and back of the hands. And no bandages of any kind shall be used on the hands or arms of the contestants. For the purpose of this statute an amateur boxing exhibition shall be and is hereby defined as one in which no contestant has received, or shall receive in any form, directly or indirectly, any money, prize, reward or compensation either for the expenses of training for such contest or for taking part therein, except as herein expressly provided. Nor shall any person appear as contestant in such amateur exhibition who prior thereto has received any compensation or reward in any form for displaying, exercising or giving any example of his skill in or knowledge of athletic exercises, or for rendering services of any kind to any athletic organization or to any person or persons as trainer, coach, instructor or otherwise, or who shall have been employed in any manner professionally by reason of his athletic skill or knowledge; provided, however, that a medal or trophy may be awarded to each contestant in such amateur boxing exhibitions, not to exceed in value the sum of \$35.00 each,

which such medal or trophy must have engraved thereon the name of the winner and the date of the event; but no portion of any admission fee or fees charged or received for any amateur boxing exhibition shall be paid or given to a contestant in such amateur boxing exhibition, either directly or indirectly, nor shall any gift be given to or received by such contestants for participating in such boxing exhibition, except said medal or trophy. At every amateur boxing exhibition held in this state and permitted by this section of the Penal Code, any sheriff, constable, marshal, policeman or other peace officer of the city, county or other political subdivision, where such exhibition is being held, shall have the right to, and it is hereby declared to be his duty to stop such exhibition, whenever it shall appear to him that the contestants are so unevenly matched or for any other reason, the said contestants have been, or either of them, has been seriously injured or there is danger that said contestants, or either of them, will be seriously injured if such contest continues, and he may call to his assistance in enforcing his order to stop said exhibition, as many peace officers or male citizens of the state as may be necessary for that purpose. Provided, further, that any contestant who shall continue to participate in such exhibition after an order to stop such exhibition shall have been given by such peace officer, or who shall violate any of the regulations herein prescribed, for governing amateur boxing exhibitions, shall be deemed guilty of violating this section of the Penal Code and subject to the punishment herein provided.

Nothing in this section contained shall be construed to prevent any county, city and county, or incorporated city or town from prohibiting, by ordinance, the holding or conducting of any boxing exhibition, or any person from engaging in any such boxing exhibition therein.

**EDUCATION.** Senate Constitutional Amendment 26. Amends Sections 2, 3 and 7, Article IX, of Constitution. Provides for State Board of Education, composed of ten members with ten-year terms, appointed by Governor with concurrence of Senate, Superintendent of Public Instruction to be Executive Secretary thereof with salary fixed by law; 6 Board to provide, under legislative regulations, textbooks for elementary schools; empowers Legislature to transfer jurisdiction of such Superintendent to Director of Education whenever hereafter it creates latter office, vacating other office while latter exists; authorizes regulations whereby holders of State credentials may teach without county certificates.

YES

NO

Senate Constitutional Amendment No. 26—A resolution to propose to the people of the State of California an amendment to the constitution of said state by amending sections two, three and seven of article nine thereof.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its regular session commencing on the third day of January, 1927, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California the following amendments to the constitution of the State of California:

#### PROPOSED AMENDMENTS

First. Section 2 of article IX of said constitution is hereby amended to read as follows: (Proposed changes in provisions are printed in black-faced type)

Sec. 2. A superintendent of public instruction shall at each gubernatorial election be

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elected by the qualified electors of the state and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election. He shall be ex officio executive secretary of the state board of education and shall perform such other duties and receive such salary as are fixed by law.

Whenever the Legislature shall hereafter create the office of director of education it shall have power to transfer to and vest in said director all of the powers, duties, responsibilities and jurisdiction now or hereafter vested by law in the superintendent of public instruction. If and when such office of director of education is created and such powers, duties, responsibilities and jurisdiction are so transferred the office of superintendent of public instruction shall be and is hereby vacated and suspended and shall continue to be vacated and suspended during the continuance and the existence of such office of director of education.

Second. Section 3 of article IX of said constitution is hereby amended to read as follows: (Proposed changes in text of section 3 are

printed in black-faced type. New matter in second paragraph thereof is similar in part to the two sentences of the existing provisions of section 7.)

Sec. 3. A superintendent of schools for each county shall be elected by the qualified electors thereof at each gubernatorial election, except in such counties as provide otherwise by county charter adopted in accordance with article XI of the constitution.

The Legislature may provide for a board of education in each county in the state, and fix its powers and duties except that county superintendents and county boards of education shall have power to examine applicants for teachers' certificates of elementary type and grade, to grant teachers' certificates and to make regulations whereby holders of state credentials of any type or grade may record such credentials and teach within the county under their jurisdiction without the issuance of a county certificate.

Third, Section 7 of article IX of said constitution is hereby amended to read as follows: (Proposed changes in provisions are printed in black-faced type)

Sec. 7. The Legislature shall provide for the appointment by the governor, with the advice and consent of two-thirds of the Senate, of ten qualified electors, of whom not more than six shall be of the same sex, who shall constitute the state board of education with such powers and duties, except as in this constitution provided, as shall be fixed by law. The terms of office shall be so fixed that two vacancies regularly occur on March first of each odd-numbered calendar year. The governor shall fill vacancies, caused by death or resignation, for any unexpired terms, subject to confirmation by the Senate at its next regular session as provided for original appointments.

The state board of education shall, under such regulations as the Legislature may prescribe, provide, compile or cause to be compiled and adopt a uniform series of textbooks for use in the day and evening elementary schools throughout the state.

The state board may cause such textbooks, when adopted, to be printed and published by the state printing office; and whenever and however such textbooks may be printed and published, they shall be furnished and distributed by the state free of cost or any charge whatever, to all children attending the day and evening elementary schools of the state, under such conditions as the Legislature shall prescribe. The textbooks, so adopted, shall con-

tinue in use for not less than four years, without any change or alteration whatsoever which will require or necessitate the furnishing of new books to such pupils, and said state board shall perform such other duties as may be prescribed by law.

#### EXISTING PROVISIONS

(Provisions proposed to be repealed are printed in italics)

Sec. 2. A superintendent of public instruction shall, at each gubernatorial election *after the adoption of this constitution*, be elected by the qualified electors of the state. *He shall receive a salary equal to that of the secretary of state*, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

Sec. 3. A superintendent of schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; *provided, that the Legislature may authorize two or more counties to unite and elect one superintendent for the counties so uniting.*

\*Sec. 7. The Legislature shall provide for the appointment *or election of a state board of education*, and said board shall provide, compile, or cause to be compiled, and adopt, a uniform series of textbooks for use in the day and evening elementary schools throughout the state. The state board may cause such textbooks, when adopted, to be printed and published by the superintendent of state printing, at the state printing office; and *wherever and however* such textbooks may be printed and published, they shall be furnished and distributed by the state free of cost or any charge whatever, to all children attending the day and evening elementary schools of the state, under such conditions as the Legislature shall prescribe. The textbooks, so adopted, shall continue in use not less than four years, without any change or alteration whatsoever which will require or necessitate the furnishing of new books to such pupils, and said state board shall perform such other duties as may be prescribed by law. *The Legislature shall provide for a board of education in each county in the state. The county superintendents and the county boards of education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions.*

\*NOTE.—The subject matter of the last two sentences of section 7 appears in modified form in proposed amendment to section 3.

**WATER.** Assembly Constitutional Amendment 27. Adds Section 3 to Article XIV of Constitution. Declares general welfare requires water resources be beneficially used, and waste or unreasonable use or unreasonable method of use prevented, and requires conservation for public welfare. Declares right in stream or water course limited to water reasonably required for beneficial use, riparian rights attaching to flow required therefor, and shall not extend to waste or unreasonable use or unreasonable method of use or of diversion. Appropriator or riparian owner lawfully entitled to water not to be deprived thereof. Declares section self-executing and permits legislation in furtherance.

YES

NO

Assembly Constitutional Amendment No. 27.—A resolution to propose to the people of the State of California an amendment to the constitution of said state by adding a new section thereto to be known as and numbered section three of article fourteen thereof, relating to water rights.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its regular session commencing on the third day of January, 1927, two-thirds of all the members elected to each of the two houses of

said Legislature voting in favor thereof, hereby proposes to the people of the State of California that a new section to be known as and numbered section 3, be added to article XIV of the constitution of this state and to read as follows:

#### PROPOSED AMENDMENT

First.—There is hereby added to article XIV a new section, to be numbered 3, and to read as follows:

Sec. 3. It is hereby declared that because of the conditions prevailing in this state the general